

REMARKS

Claims 1-3, 5-6, 9-17, 19, 20, 23-34, and 36-38 stand rejected. Claims 24 and 26 have been amended to depend from a non-canceled claim. Claims 9 and 23 have been canceled. No new matter has been introduced.

An amendment may be made canceling claims or complying with any requirement of form expressly set forth in a previous Office action. Also, amendments to the claims presenting rejected claims in better form for consideration on appeal may be admitted. (See MPEP 714.12). Applicants submit that one or both of these scenarios apply to the canceled and amended claims and are thus proper amendments after a final rejection.

Claim Objections

Claims 9 and 23 are objected under 37 CFR 1.75(c) for failing to limit a base claim. To expedite prosecution, claims 9 and 23 have been canceled.

Also, claim 24 has been amended to depend from claim 15 rather than canceled claim 23.

Claim Rejections under 35 U.S.C. § 112

Claim 26 has been rejected for depending on a canceled claim. Claim 26 has been amended to depend from claim 15.

Claims Rejections under 35 USC § 103

A. Claims 1, 9-15 and 23-32

Claims 11, 9-15, and 23-32 stand rejected under 35 U.S.C. §103(a) as being unpatentable over US Patent No. 6,601,181 issued to Thomas ("Thomas") in view of US Patent No. 6,954,864 issued to Schelling ("Schelling") in further view of U.S. Pat. App. Pub. No. 2002/0143410 filed by Yance ("Yance").

Examiner concedes that neither Thomas nor Schelling teach "canceling, by the BIOS, the timer as part of a resume process initiated in response to AC power being re-present at the apparatus" as required by claim 1. Rather, Examiner argues that it "would

have been obvious ... to modify Thomas to include a timer and cancellation as part of a resume process in the event that AC power becomes re-present in order to prevent disruption of normal operations when noise is present in the AC power line.” Also, Examiner points to points to Yance paragraph [0031] as teaching using a timer as part of a resume process. Thus, Applicants take Examiner’s position to be that Yance bolsters Examiner’s argument that there would have been a suggestion to modify Thomas to achieve the method of claim 1. Applicants respectfully disagree.

First, Yance does not teach using a timer as part of a resume process. Rather, Yance teaches using a timer during shut-down. (See paragraph [0031].)

Second, as submitted in Applicants’ previous response, there could have been no suggestion to modify Thomas to achieve the method of claim 1. The purpose of Thomas, as Examiner points out, is to ensure stable AC power before resuming the apparatus. Thus, a timer is set upon resumption of AC power and the device does not resume until the timer expires. If the system detects another AC power failure during this time, it cancels the timer and awaits for resumption of AC power (see figure 5 and column 8, lines 35-40 of Thomas). If the timer of Thomas was canceled as part of a resume initiated as part of a re-presence of AC power, as in claim 1, the device would never resume thereby defeating the purpose of Thomas. Thus, Thomas teaches away from “canceling, by the BIOS, the timer as part of a resume process initiated in response to AC being re-present at the apparatus” as required by claim 1.

Therefore, the combination of Thomas, Schelling, and Yance fail to teach or suggest each and every element of claim 1. Accordingly, Applicants submit that claim 1 is nonobvious and therefore patentable over the combination. Claims 15 and 30 contain in substance the same limitations as claim 1. Thus, for at least the same reasons, Applicants submit that claims 15 and 30 are also patentable over the combination. Further, claims 10-14 depend from claim 1, claims 24-29 depend from claim 15, and claims 31-32 depend from claim 30. Thus, for at least the same reasons, Applicants submit that claims 10-14, 24-29, and 31-32 are also patentable over the combination.

Claims 9 and 23 have been canceled, rendering their rejections moot.

B. Claims 2-3, 5-6, 16-17, and 33-38

Claims 2-3, 5-6, 16-17, and 33-38 stand rejected under § 103(a) as being unpatentable over Thomas, Schelling, Yance, and U.S. Pat. No. 7,131,011 issued to Westerinen et al. ("Westerinen").

Applicants submit that Westerinen fails to remedy the deficiencies of Thomas, Schelling, and Yance. Westerinen discloses a computer system with backup that is capable of preserving a persistent state of a computer if AC power failure occurs while the system is suspended to memory. In particular, Westerinen is cited for disclosing that a BIOS can set a timer of a Real Time Clock (RTC). However, it does not disclose "canceling, by the BIOS, the timer as part of a resume process initiated in response to AC being re-present at the apparatus" as required by claims 2-3 and 5-6 each incorporating the limitations of claim 1. Thus, the combination of Thomas, Schelling, and Westerinen fails to teach or suggest all limitations. Therefore, for at least these reasons, Applicants submit that these claims are patentable over the combination. Further, claims 16-17 depend from claim 15 which Applicants submit, for at least the same reasons discussed above, is also patentable over the combination. Therefore, Applicants submit claims 16-17 are also patentable over the combination.

Independent claim 33 contains in substance the same limitations as claim 1 and claims 34 and 36-38 depend from claim 33 incorporating its limitations. Thus, for at least the same reasons discussed above, Applicants submit that claims 33-34 and 36-38 are patentable over the combination.

Claim 35 was previously canceled.

C. Claim 5

Notwithstanding the above, Applicants submit the following additional reason for the allowability of claim 5. Claim 5 recites the method of claim 2, wherein:

the method further comprises the RTC initiating waking of the apparatus, after passing of the period of time, including as part of waking of the apparatus, the basic input/output system (BIOS) causing the backup power source to be shut off, transitioning the apparatus to an un-powered state instead.

Examiner As discussed above, Thomas discloses a UPS system and method which allows a computing device to be suspended to either to memory or to disk sustained by backup power in the event of an AC power failure. To accomplish this, Thomas sets a timer and does not resume the device until the expiration of the timer. Once the timer expires, the device is resumed and is powered by AC power. Applicants submit that this is the exact opposite of "transitioning the apparatus to an un-powered state instead" upon expiration of the timer as required by claim 5. Applicants therefore submit that Thomas fails to teach or suggest each and every element of claim 5 and in fact teaches away from this limitation. Because Schelling and Westerinen also fail to teach or suggest this limitation, Applicants submit that claim 5, for at least this additional reason, is nonobvious and therefore patentable over the combination.

CONCLUSION

In view of the foregoing, Applicant respectfully submits that all pending claims are in condition for allowance. Entry of the amendments and early issuance of Notice of Allowance is respectfully requested.

The Commissioner is hereby authorized to charge shortages or credit overpayments to Deposit Account No. 500393.

Respectfully submitted,
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Dated: 10/23/2007

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